

CR-103 Attachment 1

Finding of Emergency

The State Board of Health finds that immediate amendment of WAC 246-272A-0130 is necessary for the preservation of public health, safety, or general welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest because the protocol adopted and scheduled to go into effect on September 15, 2005:

- Is not consistent with the capabilities of some of the laboratories who would perform the testing due to the inability to have samples analyzed within the maximum holding times specified by Standard Methods.
- Could result in a decreased level of accuracy and reliability that could potentially lead to public health concerns if products were installed whose testing results were incorrect.
- Could lead to an increased potential of sample contamination due to a greater than needed number of samples and the samples being handled more frequently.
- Is not consistent with protocols used by many other states. Thus, a manufacturer may make a significant investment only to find out that retesting must be done to have a product used in other states

And further finds that:

- Despite DOH actions to inform manufacturers and potential testing entities of the error and upcoming changes to the rules to rectify the error, manufacturers may have their product tested to the adopted protocol, possibly necessitating expensive retesting.
- DOH discussion with both manufacturers and technical representatives of the primary testing laboratory (the sources for the adopted language) concluded that the adopted protocol provides less assurance of accuracy and reliability at an increased cost to the manufacturer.